

Merced County

GRAND JURY FINAL REPORT



2007-2008

June 20, 2008

The Honorable Hugh M. Flanagan
Presiding Judge of the Grand Jury
Merced County Superior Court

Dear Judge Flanagan:

On behalf of the 2007-2008 Merced County Grand Jury, it is my distinct honor to submit this final report to you pursuant to California Penal Code Section 933. This report was reviewed and approved by vote of a quorum of the members.

This Grand Jury has worked very hard in carrying out its duties as watchdogs of Merced County government at several levels. It has been a privilege and honor as well as a challenge for all of us to serve in this capacity over the past year.

In addition to the mandated inspections of the Merced County Juvenile Justice facility, both Merced County jails and the Los Banos jail, the Grand Jury inspected the Livingston, Gustine, Dos Palos, Merced College and Merced city police departments and the Merced County Coroner's Office. The Grand Jury also received over thirty complaints of which it investigated nine, declined to investigate nineteen, referred one to the District Attorney and deferred two to the 2008-2009 Grand Jury.

All correspondence received was discussed before the full body and appropriate action taken.

We are all proud of the work we have done on behalf of the citizens of Merced County and hope that we have made a positive contribution to our community.

Respectfully,

A handwritten signature in cursive script, appearing to read "Alfred G. Mueller".

Alfred G. Mueller, Foreperson
Merced County Grand Jury

2007-2008
Merced County Grand Jury

Foreperson: Al Mueller

Deputy Foreperson: Harlan Dake

Law, Justice & Public Safety

1. Jane Fournier (Chair)
2. Raymond Beverly *
3. Don Surdich *
4. Denise Borge *
5. Jerry Pimentel
6. Ann Thurston

Audit & Finance/Cities/Special Districts

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3. Jose Delgadillo
4. Elaine Cortez
5. Charles Reeves

County Administration/County Services

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3. Donna Evans
4. Jil Borden
5. Willie Moore

Health, Education and Welfare

1. Gene Post (Chair)
2. Harlan Dake
3. Mary Anderson
4. Michelle Garcia*
5. Marcia Forgey

*Unable to complete term

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Livingston Police Department

Inspection

On August 21, 2007, members of the Grand Jury inspected the police department facilities at 1446 C Street, Livingston, CA.

The Grand Jury members met with Chief Bill Eldridge who provided an overview and a tour of the entire facility and provided a question and answer period. The chief also introduced some of his staff who made presentations concerning their areas of responsibilities which covered crime analysis, gang suppression activities, training and community service.

Chief Eldridge has been with the Livingston Police Department since 1992. He is very proud to serve and is completely involved in the department and the community. The Department facility was opened in 1998 and the building and grounds are clean and well maintained. The Health Department and the Fire Department inspections are current. The department is comprised of 35 staff members including an Animal Control Officer as well as paid and unpaid Reserve Officers. The patrol vehicles are well secured in a designated parking area. There are adequate and clean kitchen break room facilities for staff personnel and officers.

The Grand Jury members were shown how evidence was processed, documented and stored. The evidence room is well secured and organized; logs are current and efficiently handled. All records are backed by computer input and meet the required retention rates. The dispatch center is well staffed and contains first rate equipment that is arranged for ultimate efficiency and accessibility. The weapons locker is well managed and properly secured under dual control.

Upon completion of the tour, the Grand Jury members met in the office of Chief Eldridge. He explained his philosophy on law enforcement and community involvement. His department has built a very strong relationship with the schools in the community. Officers provide outreach and education at the Middle School and the High School including such programs as the Gang Resistance, Education and Training (GREAT) program, Neighborhood Visit program, "Every 15 minutes" program, Red Ribbon Week, Toys 4 Tots, Coats 4 Kids, Safe School Program, and Sober Graduation Night. Police Department On-campus School Resource Officers provide Traffic Safety Education in the classrooms.

Chief Eldridge organized the Police Department Citizen Volunteer Program which has grown from two original members in 2000 to a current complement of ten. Their efforts are aimed at crime prevention services and community awareness programs. They patrol the streets of the City in specially marked police vehicles and report to on-duty officers. They participate in Neighborhood Watch, vehicle abatement, bicycle rodeos, Fourth of July celebrations, animal control, traffic control and fingerprinting. They also assist dispatch personnel by answering business telephone lines, handling citizen inquiries and providing general clerical services.

Traffic Safety is important to the department. Each major area of traffic safety is addressed including drunk driving, passenger restraint usage, speed enforcement, bicycle helmet use and unlicensed drivers. In particular, drunk driving and seat belt checkpoints and aggressive traffic enforcement send a strong message to traffic violators.

Summary: The Livingston Police Department is a highly organized, progressive and professionally managed department which serves the needs of a fast-growing community. All sworn officers and the support staff are to be commended for their efforts.

Gustine Police Department

Inspection

On Tuesday, October 30, 2007, members of the Grand Jury inspected the Gustine Police Department facilities located at 682 3rd Avenue, Gustine, CA. Grand Jury members were also invited to a dedication ceremony held on Friday, November 30, 2007, for the new animal shelter constructed on Carnation Road.

The Grand Jury members were given a tour of the Gustine Police Department Facilities by Chief of Police Kris Anderson, Records Supervisor Loretta Strickler, and Community Service Officer Joann Freitas. In addition, Officer Earl Warner was present during a discussion and information session.

Some Grand Jury members attended the dedication ceremony for the newly constructed animal shelter. In a collaborative effort between the city and the Gustine Lions Club, the shelter was built to improve conditions for personnel who tend to the shelter and the sheltered animals. The previous shelter posed safety and health concerns. The approximate cost of the shelter was \$50,000, with the Lions Club donating labor and materials worth approximately \$40,000 and the city contributing \$10,000.

A follow-up interview was conducted with Ms. Strickler and Ms. Freitas on Friday, December 7, 2007 for additional information on recent events within the department. In addition to the interview, the grand jury members were invited by Chief of Police Anderson to attend a ceremony he coordinated. To correspond with the day of the invasion of Pearl Harbor, the ceremony was to recognize and honor four veterans for their service in WWII, Korean War, Vietnam War, and Gulf War, respectively. It was one example of his philosophy of the department being community-oriented.

The Gustine Police Department (PD) facilities do not include a jail. Persons taken into custody are booked into either the Los Banos or Merced County Jail. The Department is housed in a city building that also houses Council chambers and city government offices. The department has recently moved the evidence room to a larger, secured room. The two evidence handlers attended a workshop in summer 2007 to ensure the Police Department was following good practices in handling of evidence. Some rearranging of offices has also enabled the officers to now have a small break room.

The Gustine PD had received some Homeland Security funds approximately two years ago, which the Department originally used to procure some Hazardous Materials (HazMat) handling/abatement equipment. Their intent was to establish and train a HazMat team in cooperation with the Gustine Volunteer Fire Department and members from a local business which also had HazMat issues. However, the business later decided to keep its team as strictly an in-house function. The PD determined that initial and ongoing training costs and time requirements would be prohibitive, so the equipment was transferred to the Merced County fire team (CalFire), which now provides HazMat abatement services to the city.

The last visit by a Grand Jury was many years ago, so the Department has experienced some changes in leadership since the last review. The most recent change in leadership occurred in January 2007 when Chief Anderson was hired. His style of leadership is in stark contrast to his predecessor. This difference in leadership, along with staffing and scheduling, initially created dissention among some of

the officers, resulting in a vote of no-confidence in the Chief in July 2007. That vote was rescinded in December 2007 after the city offered to have Police Officers Standards Training (POST) evaluators step in to conduct an assessment of department operations.

While the withdrawal of the no-confidence vote does not indicate all issues have been resolved, it is an indication the officers are willing to move on and wait for the POST findings. In addition, the staffing has been brought back to almost full levels which has contributed to improved morale. Currently, the department personnel consist of one chief, two sergeants, one corporal, and nine officers. While the department has three newer vehicles, the fleet also includes some older vehicles with high mileage which should be replaced.

The Gustine Police Department also hired a full-time Community Service Officer in 2005; this has contributed to higher effectiveness in the code enforcement and dog licensing. Evidence of this is shown in the following statistics: in 2004, 286 dog licenses were issued; by 2006, 692 dog licenses were issued, and in 2007 approximately 800 dog licenses were issued. Weed and vehicle abatement are two other areas of emphasis for code enforcement. Weed abatement is most notably enforced April through May, while vehicle abatement is a focused enforcement in January through February. Other areas are addressed throughout the year.

The department is actively pursuing expansion of three particular programs: Reserve, Volunteer and Explorers. The Reserve Program recently swore in two reserves, the Volunteer Program is garnering more interest, and the Explorers Program is continues to enroll a number of young adults.

Recommendations:

The City should identify and obtain possible expansion facilities for the Gustine Police Department, as the current space is filled to capacity. Funding should also be made available for replacement of high-mileage vehicles.

The Chief and staff should continue to resolve their differences to become a more cohesive unit. The City should attempt to follow POST recommendations.

Commendations:

The City and the Gustine Lions Club are to be highly commended for their collaboration on the new animal shelter. Chief Anderson is also to be highly commended for his community-based policing.

DOS PALOS POLICE DEPARTMENT

INSPECTION

INTRODUCTION

The Merced County Grand Jury has, at its discretion under California Penal Code 925A, the option to investigate and report on the operations, accounts, and records of officers, functions, methods or system of performing duties of law enforcement agencies within Merced County. Since there were two complaints registered against the Dos Palos Police Department (PD) with the 2005-2006 grand jury and four more with the 2006-2007 grand jury, this panel chose to follow up and investigate the Dos Palos PD again this year.

The grand jury's Law & Justice Committee visited the Dos Palos PD on two occasions, the first of which was to observe the overall operation and see what changes, if any, had been made since the previous grand jury had been there. The second visit was a follow-up to look at some records which had not been available on the first visit. Police Chief Barry Mann conducted a tour of the facility during the first visit, which included a trip to the newly built animal control center. The animal control officer conducted a thorough tour of the center.

During the second visit, members again met with Chief Mann and discussed several questions which had been asked by other members of the grand jury during their meetings. The members also inspected appropriate officers' training records.

FINDINGS

The police department facility is orderly and as clean as can be expected, considering the age and deteriorating condition of the building in which it is housed and the space allocated for the department to function. A complete reorganization of the evidence locker and associated logs has been implemented. It is evident that an effort to clean and organize the entire facility has been made.

With respect to staffing, an administrative assistant has been hired who has some evidence technician. He has eight years experience in law enforcement, but recognized the need for further training and the department has plans to provide him with additional training. The improvement in this area is noteworthy. The grand jury does have some concern for the manner in which firearms are being stored within the evidence room; they are not secured in any kind of container, but merely stacked in a corner. There is still a need for more officers. A recently hired sergeant was terminated prior to the end of his probationary period, a situation which seems to be an ongoing problem. Another sergeant is being sought, and Chief Mann stated that the department is now short one sergeant and two officers. There is no school resource officer at this time.

The previously designated holding cells have been deactivated and arrestees are now taken to Los Banos for booking and detention. The operations room was considerably more organized than it was during last year's visit. The city's animal control shelter, which was in extremely poor condition last year, has been replaced by a new building. It is a first-rate facility, staffed by many volunteers under the supervision of the animal control officer. The animal control officer also has a new truck. The animals in the shelter are obviously well fed and cared for in a professional

manner.

There is no K-9 unit at this time because a trained officer is not available. Two dogs have been retired and a third is being kept at the animal control facility where it receives some training, but until an officer specifically designated for the K-9 unit is hired and the officer and dog receive proper training, the unit will not become active.

The police vehicles are parked outside the station in an unsecured area. The department has recently obtained two new patrol cars, and the entire fleet is now uniformly painted. All of the patrol cars are now equipped with mobile data terminals, enabling officers to file their reports while in their vehicles, thus providing the community with greater police visibility and presence. The terminals also provide mapping for and tracking of the vehicles.

The department has also recently purchased a new records management system which greatly enhances day-to-day tracking of appointments, reports and other administrative details.

A review of the citizens' complaint log showed that community complaints are logged and addressed in a timely manner. The chief keeps the log and all associated records concerning the matters in his office. The log and information therein seem to be in order. The grand jury committee also reviewed the officers' training logs. All officers have met the Basic Peace Officer Standards and Training (POST) standards. The chief has completed basic POST and has three more quarters to complete with Kaplan University on-line to obtain his BA degree.

The committee also obtained and reviewed the job description for the police chief. While the minimum requirement consists of only possession of an "appropriate" California operator's license, there is a number of other presumably desirable attributes, outlined in the job description, including knowledge, ability, experience, training, education and medical. The document was adopted on Sept. 5, 1978, and should be reviewed and updated by appropriate authority.

RECOMMENDATIONS

1. While it appears that the Dos Palos Police Department has made efforts to implement the recommendations of last year's grand jury, there remains much work to be done. The job description for the police chief needs to be updated and revised to reflect current needs and standards. The city administrator then needs to assess the chief's qualifications and ensure that the chief meets those requirements.
2. The department must obtain and utilize a more secure storage locker for the weapons kept in the evidence room.
3. The evidence technician should attend current training for his position as soon as possible.
4. Consideration should be given to provide a more secure area in which to park department vehicles. As currently configured, the vehicles could easily be vandalized.
5. The department should reassess its need for a K-9 unit. In such a small department, it may prove to be unfeasible or impractical to have a K-9 unit.
6. This grand jury strongly recommends that the 2008-2009 grand jury reinspect the Dos Palos

Police Department.

MERCED COLLEGE POLICE DEPARTMENT

On November 7, 2007, members of the Grand Jury inspected the Merced Community College Police Department located at 3600 M Street in the Services Building on the Merced College campus. The last inspection conducted by the Grand Jury was on November 17, 2003.

The tour of the facility was conducted by Merced County Deputy Sheriff Jim Wilde. Deputy Wilde is the on-site Law Enforcement Manager for the department. The College District has contracted through the Merced County Sheriff Department for supervision and logistical support for the Police Department.

FINDINGS

Deputy Wilde has been supervising the department for approximately two years. Under his supervision, the department was remodeled to include a wall in the entrance area for privacy and security. The department was clean and in good condition. There is a central area which serves many purposes including an area for computers where the officers are able to complete their reports.

The department consists of a total of 21 personnel including three security officers at the Los Banos campus. There are three full-time P.O.S.T certified police officers, an office manager, three part-time citation officers who work 19 hours per week on an 11 month contract. The remainder are part time security officers who are considered 8 hour a week contract employees.

During the investigation of Grand Jury report Complaint # 03-04-11, the grand jury found that some equipment the department had obtained from the Defense Reutilization and Marketing Service was being removed from the campus by employees. It thus recommended the equipment be carefully tracked. This equipment was later determined to be excess to the department's needs and was returned to Sharp Army Depot by Sergeant B.J. Jones and other employees of the Merced County Sheriff's Department.

The department's Record Management System (RMS) is integrated with the Merced County Sheriff's Department, so that information gathered can be used for reporting and security purposes.

The lost and found procedures were updated to include keeping records in house and securing and processing such property separate from evidence items. The lost and found property is now stored in a secure locker.

The department has established a working relationship with the California State Parole Agency, Merced County Probation Department and other allied agencies; this has proven to be effective in dealing with various elements of the student population.

One new patrol vehicle was purchased recently and has been completely outfitted with

appropriate equipment.

Assigned police officers are trained in how to respond to on-campus shooting threats. The officers are current with their required P.O.S.T training which is set up through the Merced County Sheriff's Department and is consistent with the patrol staff at the sheriff's department. The officers take part in range training with the sheriff department personnel.

The officers as well as other personnel commonly provide classroom presentations on safety and security. Officer Tim Martin is instructing a class at Cruickshank Middle School in the Gang Resistance Education and Training, (G.R.E.A.T) program. Assigned personnel are also pro-active in the area of community relations.

RECOMMENDATIONS

The department should plan, develop, install, test and implement an effective campus-wide warning system as soon as possible. The system should be simple enough to be easily understood by all students as well as employees, yet complex enough to convey all essential messages in the event of a serious emergency. Minimally, it should be able to convey instructions to all student and instructors to remain in their classrooms until an all-clear is given, and to wait for further instructions. A reliable back-up system, while not an absolute necessity, should be considered. Such a system might be one which makes automated announcements to each classroom, or notifies all students via their cellular phones.

COMMENDATION

Deputy Wilde and his staff should be commended for the improvements that have been made and implemented since the last Grand Jury tour.

CITY OF MERCED

POLICE DEPARTMENT INSPECTION

INTRODUCTION

The Law and Justice Committee of the Grand Jury conducted an inspection of the Merced Police Department on November 28, 2007. The tour of the facility, located at 611 West 22nd Street, Merced, was conducted by Commander Jeff Shindler.

FINDINGS

Commander Shindler gave a complete overview of the entire operation of the Merced Police Department (PD). The passage of Measure C in 2006 has enabled the expansion of the PD's uniformed force to 109 sworn officers. The main police station is well maintained, though quite cramped for space, but the department has received approval to complete a study for a new building. In addition to the main police station, the department has two substations, one located at 1109 Loughborough Drive and the other at 470 West 11th Street. These substations, each of which is staffed 12 hours per day, allow officers to be readily available to the neighborhoods in which they are located for investigations and assistance in gang suppression activities.

The committee was also briefed by Commander Tom Martin, Officer Hector Ortiz and Chief Russ Thomas. Commander Martin showed the committee officers' briefing room, their locker room and the detectives' offices. Officer Ortiz conducted the tour of the evidence room, which was very well organized, neat and clean. Access to it is limited to two officers, thus ensuring positive control of all evidence materials.

Detective Joseph Weiss gave a thorough and interesting explanation of the operation of the computer forensic laboratory where evidence of computer and cell phone crimes are investigated and processed. Of particular note is the lab's status as a headquarters facility for the Sacramento Valley Hi-Tech Crimes task force. As such it is consulted by other law enforcement agencies throughout the central valley for its expertise in this specialized field.

Chief Thomas explained his beliefs and expectations for his officers. He has made some changes in the command staff alignments and added new services. One example is the creation of a Crime Scene Response Team, which has proven to expand the PD's investigative capabilities.

COMMENDATION

The Merced Police Department is well organized and responsive to the community's needs. The facility is clean and well maintained and presents a professional appearance. Education of officers and staff and service to the community are top priorities of the chief and his administration.

**MERCED COUNTY SHERIFF'S DEPARTMENT
MAIN JAIL
MANDATED INSPECTION**

INTRODUCTION

The Merced County Grand Jury inspected the main Merced County jail at 700 W. 22nd Street, Merced, on November 14, 2007. This inspection is mandated to be performed annually by California Penal Code 919. Members of the grand jury met with Sgt. Dan Bobrowski and Commander Rick Thoreson, who provided an overview of jail operations and a report of employment needs. They also conducted a thorough tour of the facility.

FINDINGS

On the date of the inspection, the facility was at maximum capacity of 180 inmates. Members were shown the operations center where all entryways are controlled and all of the displays for the closed circuit cameras which provide jail security are located. The grand jury observed the booking procedure which includes the Live Scan computerized fingerprinting process that is connected to the state and federal law enforcement data base system. Also visited were the food distribution area, the holding cell area and the classification office where inmates arriving from the Latorraca Correctional Facility are processed.

Medical services are provided via a contract with the California Forensic Medical Group. The medical department was inspected and some of the staff interviewed. They provide medical services 24/7 for jail inmates, except for mental health services, which are provided on an on-call and regularly scheduled weekly basis.

The grand jury then visited the segregated cell block area, a part of the jail which was constructed in the 1960s, and is the oldest part of the jail. Inmates (at the time of the grand jury's visit) are placed in cells according to their gang affiliation, if any. Since then, the two main gangs, Nortenos and Surenos, are separated into the two county jail facilities - the main jail and the Latorraca facility. The cells hold eight inmates each, in tiered bunks.

The overall condition of the cell blocks is deplorable! Paint on the ceiling and walls is chipped and peeling and needs to be sanded and repainted. There is condensation on many surfaces and metal surfaces are rusted. There is considerable evidence of roof water leaks. Repairs to cell block hardware, if needed, are expensive and difficult to obtain because parts are hard to find and no longer readily available. Because of its age, the grand jury questions whether or not there may be an asbestos problem, as well. In sum, Merced County needs a new jail!

Staffing at the main jail continues to be a problem, as was noted in the 2007 Grand Jury report.

RECOMMENDATIONS

The Merced County Sheriff's Department and the county Board of Supervisors need to deal with the continuing overcrowding problem, as well as increasing the number of correctional officers at the facility.

Since funding for a new jail is unlikely to be obtainable in the near future, a concerted effort to improve maintenance of the segregated cell area must immediately become a priority for the

department. The area should be temporarily vacated, sand blasted and repainted, at a minimum. The roof should be thoroughly inspected and repaired as necessary.

Improvements should be made to the heating/cooling/ventilation systems to prevent condensation and reported wide temperature variations in the cell block areas.

If these deficiencies are not addressed quickly, the potential for inmate disturbances, possible escapes and further, more expensive facility repairs will only grow to unmanageable proportions.

JOHN LATORRACA CORRECTIONAL FACILITY

MANDATED ANNUAL INSPECTION

INTRODUCTION

California Penal Code Section 919 mandates the grand jury to inspect correctional facilities within Merced County annually.

The grand jury visited and toured the John Latorraca Correctional facility at 2564 West Sandy Mush Road, Merced, on December 3, 2007. The Merced County Sheriff's Department, under the command of Sheriff Mark Pazin, is responsible for the operation of the facility. The site is under the direct supervision of Commander Joe Scott. The tour was conducted by the day shift supervisor, Sgt Timothy Moore. The grand jury toured the facility and examined several dormitories, of which there are 24, as well as the food service and medical care areas. Male and female inmates were interviewed. Commander Scott then gave a presentation on the operations and staffing of the jail.

FINDINGS

Staffing at the jail has been and continues to be at crisis levels. This is the seventh consecutive year in which the grand jury has identified this serious deficiency! The jail typically has more inmates than there are beds available. The only solution available to resolve this is to place mattresses on the floor in the dorms. On average, the inmate population is 80% male and 20% female. A large percentage of the inmates are charged with serious and/or violent crimes. Inmates are confined to their dorms most of the time and are largely unsupervised there. As a consequence, one inmate soon becomes a de-facto leader in each dorm. In jail slang, the leader is called the "shot caller", because he dictates behavior among his peers. This clearly increases the danger for more vulnerable inmates, and beatings are frequent.

Often, individuals with severe mental health problems, who are beyond the capability of the Mental Health Department to control, are brought here to be placed in custody until they can be transferred to a state mental facility or are released. This procedure adds more difficult responsibilities to an already overburdened staff.

Staff shortages have also led to excessive overtime; this becomes an acute problem in volatile times and escalates the potential for violence. These situations contribute to low morale among correctional officers. A previous grand jury met with the County Executive Officer, who agreed to budget for four additional correctional officers each year until the facility is adequately staffed and becomes a safe workplace.

Recently, Merced County along with many other counties nationwide lost its insurance coverage for law enforcement agencies. Therefore, in December, 2007 the Sheriff's Department established a policy which made it very difficult to strip search prisoners; now when a prisoner is booked, he or she must be allowed to change clothes and shower in complete privacy. This creates a huge potential for concealed contraband to enter the facility.

The grand jury also inspected the kitchen and observed lunch preparation. Two hot meals and

one cold meal are served daily. The kitchen also prepares meals for the main jail in downtown Merced, as well as for the juvenile justice facility which is nearby. The food is well prepared and sufficient. The kitchen was very clean and well organized. One problem with food at this facility is that the local water has been found to be contaminated with unacceptable levels of arsenic. As a result, the sheriff's department must purchase bottled water at a cost of nearly \$50,000 per year. A water filtering plant is to be installed, but that project is still only in the planning stage.

Commander Scott stated that the sheriff's department has applied for a grant to pay for a new building which would house 96 inmates. The building would include a large all-purpose area which could be adapted for many uses, perhaps even a courtroom, saving the costs of transporting prisoners to and from downtown for hearings.

Overcrowding at the jail remains at crisis levels, and there continues to be an apparent lack of concern and attention by the county Board of Supervisors to the problem.

RECOMMENDATIONS

Funding for adequate staffing and added building capacity must be sought by county officials at every level to relieve the ongoing overcrowding crisis. This problem will only escalate over time, and must be given attention by the county Board of Supervisors at every possible opportunity. Inaction will only result in ever increasing costs in the future

COMMENDATION

The staff and supervisory personnel at the Latorraca facility are to be commended for their efforts under trying and often dangerous conditions.

**MERCED COUNTY PROBATION DEPARTMENT
IRIS GARRET JUVENILE JUSTICE CORRECTIONAL CENTER
MANDATED ANNUAL INSPECTION**

INTRODUCTION

California Penal Code, Section 919, mandates the grand jury inspect correctional facilities within the county each year. The grand jury undertook a tour and inspection of the Iris Garret Juvenile Justice Correctional Center located at 2586 West Sandy Mush Road, Merced, on December 5, 2007. The jury toured the entire facility, examining the intake area, medical service station, dormitories, classrooms and recreational facilities. The Assistant Chief Probation Officer and the Facility Supervisor conducted the tour.

FINDINGS

The facility was very clean, well organized and in overall excellent condition. It consists of two buildings, each with four wings in an "X" pattern, with a very modern control station centrally located in the center of each "X".

This enables correctional staff to closely monitor and control all activity in each building. Each wing has a classroom and teachers are permanently assigned to conduct regular academic classes at the facility. In addition, some vocational training is available to the minors.

The population of the facility varies from 85 to 95 minors at any one time. There are 69 staff members currently assigned to the center; 75 are authorized. Officials are attempting to recruit for the open positions.

The food service facility was also inspected by the grand jury and found to be clean and well managed. Well balanced meals, including snacks consisting mostly of fresh fruit, are prepared at the nearby John Latorraca Correctional Facility and transported to the center at appropriate times.

There are well organized and supervised recreational activities available to the minors. Staff appear to be very much in control of a difficult job. There is a courtroom co-located in the center which expedites the court process and eliminates transportation costs.

Of particular note is a relatively new program initiated at the center, called the Bear Creek Academy. It is a program through which selected minors can earn their way out of detention more quickly. The program operates on a point system whereby the selected minors can earn points through good behavior or lose points through bad behavior. They can also earn additional points through various endeavors, such as community service work in grounds maintenance. The program thus provides incentive for good behavior, especially when minors see others being released more quickly through their own actions.

COMMENDATION

The staff and administration of the Merced County Juvenile Justice Center are to be commended for the excellent work they are doing. The facility is very secure and well managed, thus helping to ensure the safety of the community as well as the minors.

LOS BANOS JAIL MANDATED INSPECTION

INTRODUCTION

On January 9, 2008, the Merced County Grand Jury inspected the City of Los Banos jail at 945 5th St. Los Banos, Ca. The Grand Jury Law and Justice Committee spoke with Chief Chris Gallagher of the Los Banos Police Department (LBPD). The chief had been "at the helm" for approximately 16 months at the time of the meeting. He turned the tour and discussion over to Administrative Commander and Jail Manager Dan Fitchie who has served with the LBPD for 26 years.

FINDINGS

Los Banos operates a Type I jail facility which allows the department to house no more than 20 inmates for up to 96 hours, excluding holidays. On the day of the grand jury's visit there were no inmates being held in the facility. The California Highway Patrol, Dos Palos Police Department, California Fish and Game Department, Merced County Sheriff's Department and Gustine Police Department all use the LB jail for booking purposes. In 2007 there were 3552 bookings at the jail.

The jail, part of the police department facility, was designed according to the standards in effect at the time of its construction in the 1960s. As such, it no longer meets criteria in effect today, and cannot be modified to meet today's standards. The jail has passed all required inspections, including those of the health department, fire department and juvenile justice agencies. Its next inspection by state authorities was scheduled to be performed shortly after the grand jury's visit. Notwithstanding its age, the facility is clean and well maintained. There is one cell designed to hold inmates who may be in danger of injuring themselves. Again, due to its age, the materials used in that cell are no longer available, and repairs to the surfaces are difficult to accomplish, expensive, and only minimally satisfactory. There is a kitchen area where sandwiches and other snacks are prepared for inmates. Although all persons entering the jail area, including uniformed officers, are required to place any dangerous devices such as guns, knives, etc. in a secured locker, on the day that the grand jury visited the jail there was a sharp knife in one of the kitchen drawers.

Los Banos police officials will not hold what they call "unique" inmates, such as violent or mentally disturbed detainees. Such inmates are immediately transported to more appropriate Merced County facilities. The LBPD however, proudly states that its jail has been effectively utilized by keeping approximately 16,000 inmates out of county jail facilities over a ten year period. Generally speaking, these have been "cite and release" or bailed out detainees.

Commander Fitchie told the grand jury that the LBPD is very pleased with the cooperation it receives from other Westside law enforcement agencies. In particular, he noted that the Merced County Sheriff's Department to leave a vehicle based at the LBPD to transport inmates to county facilities each day, if needed, thus saving the LBPD the resources required to make a round trip for that purpose.

The LBPD is authorized to employ seven Community Service Officers (CSO) who are used as jail monitors under the supervision of an on-duty sergeant. At the time of the grand jury's visit,

the department had only three CSOs on staff, four short of the seven authorized, and one out on maternity leave. One CSO is funded under Measure P (Public Safety Fund 2004), one is funded through Community Facilities District and five are funded from the city's general fund. The city is currently in the midst of a hiring freeze; hence the unfilled CSO positions cannot be filled at this time. When CSOs are not available, the jail area is under constant surveillance by police dispatch personnel. The LBPD is planning to build a new facility which may include some holding (12 hour maximum) cells.

RECOMMENDATIONS

The grand jury recommends that increased emphasis be placed on securing the kitchen area and removing any dangerous items that may be found there.

We also recommend that every effort be made to find funding for the unfilled CSO positions.

COMMENDATION

The grand jury thanks Chief Gallagher and Commander Fitchie for their positive attitude and informative tour.

MERCED COUNTY CORONER'S OFFICE

On February 13, 2008, members of the Grand Jury inspected the Merced County Coroner's Office located at 455 E. 13th Street, Merced. The members were given a tour of the facility and examined the meeting room, record keeping system and the decomposition area. They also spoke with several employees.

FINDINGS:

Chief Deputy Coroner Mike Harris conducted the tour of the facility and gave a general overview of the facility. Deputy Harris has been in charge of the facility for approximately one year and two months. Most of the recommendations made by the 2004-2005 and 2005-2006 Grand Juries have been implemented. The exception is that there is no pathologist on-site. This finding is addressed later in this report.

The exterior and interior of the facility are clean and well maintained.

The interior has been remodeled to include a private conference room. This room is used to conduct meetings and consultations with families; it provides more privacy and confidentiality for the staff and family members.

A new record management system has been implemented. Record keeping is now fully automated, and can be searched by name, date of birth, case number or next of kin. There are 21 cases pending which are over 90 days old, and a total of 50 pending cases. Most of the older cases are awaiting responses from the state laboratories in Sacramento. When cases become 90 days old, a report is automatically generated, alerting staff to follow up to determine the reasons for the delay. A status board in the office lists current cases as well as older ones still under investigation. The coroner's Record Management System was designed by Deputy Coroner Mike Harris using Microsoft Access. Several other county coroners' offices have expressed interest in using the system.

The coroner staff includes Deputy Harris, four full-time deputy coroners and one part-time extra help coroner. There are three vans available for transportation. Hours covered by the full-time staff and extra help are 5 a.m. to 11 p.m. Monday through Wednesday, 5 a.m. to 5 p.m. Thursday and Friday, and 7 a.m. to 3 p.m. Saturday and Sunday. There is a full-time deputy coroner on call 24-7. Full-time deputy coroners are sent to the P.O.S.T 80 hour Death Investigation Course. Two of the full-time deputy coroners are registered with the American Board of Medicolegal Death Investigators. The remaining two full-time deputy coroners have completed the pre-requisites for the same program and are scheduled to be tested in 90 days. Continuing education consists of attendance at a State Coroners' seminar at least every two years.

Death certificates are completed within eight working days of a death and sent to the Public Health Department. Death certificates are not issued by the coroner's office. Regardless of whether or not the determination of cause of death has been established, a death certificate is filed within this time frame. If the cause of death has not been determined when the death certificate is filed, a pending death certificate is issued. A pending death certificate is almost always accepted for insurance purposes. When the cause/manner of death is determined, an amended death certificate is filed and that

usually goes to Sacramento through the Merced County Public Health Department. Certified death certificates are almost always available through the funeral home. The Merced County Coroner's Office does not have access to or issue certified death certificates.

In April of this year, the state will be installing the Electronic Death Registration System. This system will greatly speed up the death certification process and allow the coroner's office to submit amendments immediately rather than having to go through Sacramento.

The decomposition area was constructed in 2004 and is designed to handle a decomposing body; the air system has been changed, and the coroner's office is currently waiting for public works and PG&E to get additional power to the building to handle the system. Two Grand Jury members inspected this facility.

An autopsy, if necessary, is conducted in four to five days. The body is then released to the funeral home. If a pathologist is needed, the coroner's office has a contract with a pathologist out of Stockton, and usually receives same day response.

Not all deaths meet the criteria set forth within the California Government Code (GC 27491) to be deemed coroner cases. The coroner's office has established a list of deaths which meet the appropriate criteria.

When queried about what procedures are followed in the event of a death due to possible or actual radiation contamination, Deputy Harris replied that such a scenario had not been officially contemplated; hence no written procedure has been developed. He added that in such instances, assistance would likely be requested from state authorities.

RECOMMENDATIONS:

1. A strong effort, including assistance from the Office of the Sheriff and/or the Board of Supervisors if needed, be made to complete the power requirements for the decomposition room so that it can be fully utilized.
2. Although a radiation caused death is unlikely in this area, such an occurrence is possible. A standard procedure should be developed and published for handling and processing such cases.

COMMENDATION

3. Deputy Coroner Mike Harris and his staff are to be commended for the improvements that have been made to the coroner's facility, and their continuing efforts to make further improvements.

COMPLAINT # 07-08-01, 07-08-03 & 07-08-06

Livingston City Council

Summary

Several complaints were received from residents of Livingston about three members of the city council of that city. Specific complaints alleged that city staff was being harassed, non-agenda items were being voted on at council meetings, the Brown Act was being violated and improper conduct was taking place. The Grand Jury found that city staff are being intimidated, some improper requests of city staff are being made, one member of the council, Councilman Rodrigo Espinoza, did not comply with the California Health & Safety Code, the public is unaware of how to obtain copies of official minutes of council meetings and council meeting rules are not being followed. The Grand Jury also found that serious personal differences among city council members are negatively impacting the ability of the council to govern the city effectively.

Introduction

The complainants, of which there are three, allege that three members of the Livingston City Council, Mayor Gural Samra, Councilman Rodrigo Espinoza and Councilman William Ingram, repeatedly interrupt the work of and harass the city hall staff, vote on non-agenda items at City Council meetings, violate the Brown Act, and engage in conduct which is questionable and/or unethical. The Grand Jury agreed to investigate the complaints. All three complaints are related, so the Grand Jury decided to combine them into one investigation.

Method of Investigation

The County Administration/County Services Committee interviewed each of the complainants separately. All three stated that their primary complaint was that certain members of the city council do not follow proper procedures and protocol in contacting city hall staff, and that they make unreasonable demands of the staff. The complainants also stated that:

The position of a Code Enforcement Officer, urgently needed in the city, had been provided for in past and current budgets, but has not yet been filled.

Some council members' conduct and decision making is unethically made for self-gain and not in the best interests of the community which they were elected to serve.

Council member Rodrigo Espinoza has purchased property in the redevelopment area while he is a director of the Redevelopment Agency, thus creating a conflict of interest.

The committee also interviewed several senior city officials, members of the city staff and a member of the public, as well as city council members. One member of the council, Mr. Rodrigo Espinoza, even after being subpoenaed, refused to answer any questions, citing his Fifth Amendment right against self-incrimination. He also refused to sign any documents, even the standard admonishment against discussing any matters or questions asked of him by the Grand Jury.

The committee also reviewed audio recordings and published minutes of city council meetings,

memoranda of record written by city officials and staff, city ordinances and other official documents. Several grand jury members also attended selected city council meetings.

Findings

City staff members universally agreed that some members of the council habitually interrupted staffs' workday to request special attention to council members' concerns. These requests were documented in letters and memoranda. Many staff members felt intimidated by the council members, fearing they could lose their jobs and/or have their department's budget cut if they did not acquiesce to the requests.

Senior city officials and staff members, as well as the council members interviewed, all agreed that contacts between the council members and staff should go through the City Manager, but this protocol is obviously not consistently being followed.

The three council members have made requests of city staff that are inappropriate and could be considered unethical. One example of this was an incident when a city staff member was asked to certify that a relative of the councilman had performed some community service which the relative had not actually performed.

The position of Code Enforcement Officer was budgeted for in the 2006-2007 city budget, and again in the 2007-2008 city budget, but has never been filled. There is disagreement among council members as to whether direction has been given to the city manager to fill the position. Councilman Ingram stated that the city manager had been instructed by the council to fill the position, but this was not confirmed by any other council members. City hiring officials stated that they had not been told to fill the position, and could not do so until the council directed that the position be filled.

Published minutes of city council meetings are incomplete and inaccurate. This finding was also addressed by the previous grand jury in their report on Complaint # 06-07-15. However, further inquiries revealed that the official minutes of council meetings consist of the audio recordings of such meetings. Those recordings are available for purchase by the public at a nominal cost. Published (written) minutes are essentially a synopsis of council meetings.

Allegations of Brown Act violations could not be substantiated. Although numerous witnesses stated that the three council members were often seen together, none could confirm that any city business was being discussed by the three. Since the Brown Act explicitly permits social contact (CA Government Code 54952.2(c) (5)) among elected officials, the grand jury found no violations.

City Council members allow their personal differences and conflicts to interfere with voting and decision making. This negatively affects the community.

Council member Espinoza did purchase property within the Redevelopment area while he was a Director of the Redevelopment Agency. The California Form 700 was filed, but the purchase was never entered into the city council minutes, as required by California Health & Safety Code, Section 33130 (a). Since the filing of the Form 700 does constitute public disclosure, the grand jury does not believe there was any intent to conceal the purchase on Mr. Espinoza's part, and it is possible that the failure to enter the facts of the purchase in council minutes is merely an administrative oversight. Since Mr. Espinoza refused to be interviewed, the grand jury was unable to clarify this matter any further.

The committee randomly selected and reviewed several audio recordings of city council meetings and was unable to verify that the council members regularly vote on non-agenda items.

The grand jury also noted that time limits for individual comments (three minutes per individual as written in council meeting rules, and stated by the Mayor at each meeting) are not observed.

Recommendations

Council members should carefully consider all actions they might wish city staff to take, to ensure that such actions are in the best interests of the city as a whole, not merely for the benefit of selected individuals. They would be well advised to consult with the city manager first to obtain his and staffs recommendations.

All council members should strictly observe the protocols implied by the City Organizational Chart and make requests of city staff only through the City Manager, except in emergency situations.

Council should resolve their differences with respect to the need for a Code Enforcement Officer, and direct the city hiring authority accordingly. There appears to be a real need for such a position, and the grand jury recommends that the position be filled as soon as possible.

The council should make it very clear, perhaps through an ordinance, that the official minutes of council meetings are the audio recordings of such meetings. Further, copies of these recordings should be made readily available to the public at cost. One possible way to do this would be to provide copies to members of the public at no cost if the person desiring such a copy provides a blank audio tape on which to copy. Since not everyone has access to playback equipment, the city should provide for a room and equipment which the public can use for this purpose.

Although no Brown Act violations could be substantiated, council members should be aware that even the appearance of impropriety is to be avoided by elected officials. Council members should try to avoid frequent gatherings which tend to instill public suspicions.

All council members should make every effort to cast aside their personal differences in favor of the best interests of the City of Livingston.

Councilman Espinoza should resign from his position as a Director of the Redevelopment Agency. Further, he should immediately enter into the next council meeting's minutes, notification of his purchase of property within the redevelopment area.

Council should, with the assistance of the city attorney, enforce the three-minute rule for public comment at all city council meetings.



City of Livingston

1416 C Street
Livingston, CA 95334

May 6, 2008

Merced County Grand Jury
P.O. Box 2034
Merced, California 95344-2034

**Re: City of Livingston Response to Grand Jury Report Complaint 07-08-01, 07-08-03,
and 07-08-06**

Dear Members of the Grand Jury:

The City of Livingston has reviewed the findings and recommendations of the Merced County Grand Jury Report regarding Complaint 07-08-01, 07-08-03, and 07-08-06. After careful consideration of the report and Livingston's review of the facts, the City responds to the Grand Jury's findings and recommendations as follows:

Finding 1: City staff members universally agreed that some members of the Council habitually interrupted staff's workday to request special attention to Council Members' concerns. These requests were documented in letters and memoranda. Many staff members felt intimidated by the Council Members, fearing they could lose their jobs and/or have their department's budget cut if they did not acquiesce to the requests.

City Response: The City disagrees with this finding. The City is not aware of any individual staff members concerns regarding special requests, fear of losing their job, and/or budgets cuts to their department. The City Council is aware and familiar with the city manager form of government, which is applicable to the City of Livingston, in which the City Manager, and not the Council has the power to administer the day-to-day affairs of the City, hire and fire city employees, and perform such other functions as the Council chooses to authorize by ordinance.

Finding 2: Senior City officials and staff members, as well as the Council Members interviewed, all agreed that contacts between the Council Members and staff should go through the City Manager, but this protocol is obviously not consistently being followed.

City Response: The City agrees that all contacts between Council Members and staff should go through the City Manager.

Finding 3: Three Council Members have made requests of City staff that are inappropriate and could be considered unethical. One example of this was an incident when a City staff member was asked to certify that a relative of the Councilman had performed some community service which the relative had not actually performed.

City Response: The City is not aware of any inappropriate requests made by Council Members to City staff. The City Council agrees that all contacts between Council Members and staff should go through the City Manager and should not include requests that may personally benefit a Council Member.

CITY OF LIVINGSTON
1416 "C" Street LIVINGSTON, CALIFORNIA 95334 PHONE: (209)394-8041 FAX: (209) 394-4190
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Finding 4: The position of Code Enforcement Officer was budgeted for in the 2006-2007 City budget, and again in the 2007-2008 City budget, but has never been filled. There is disagreement among Council Members as to whether direction has been given to the City Manager to fill the position. Councilman Ingram stated that the City Manager had been instructed by the Council to fill the position, but this was not confirmed by any other Council Members. City hiring officials stated that they had not been told to fill the position, and could not do so until the Council directed that the position be filled.

City Response: The City agrees with this finding. The City Manager has not received instruction from the City Council to fill the position of Code Enforcement Officer.

Finding 5: Published minutes of City Council meetings are incomplete and inaccurate. This finding was also addressed by the previous grand jury in their report on Complaint # 06-07-15. However, further inquiries revealed that the official minutes of council meetings consist of the audio recordings of such meetings. Those recordings are available for purchase by the public at a nominal cost. Published (written) minutes are essentially a synopsis of council meetings.

City Response: The City disagrees with this finding. The published minutes of the City Council meetings are not verbatim minutes from the City Council meeting, but constitute a summary of the meeting. The minutes are placed on the agenda for review and approval and present an accurate and complete summary of the Council meeting. The City also records the Council meetings and makes these audio recordings available to the public at no charge.

Finding 6: Allegations of Brown Act violations could not be substantiated. Although numerous witnesses stated that the three Council Members were often seen together, none could confirm that any City business was being discussed by the three. Since the Brown Act explicitly permits social contact (CA Government Code 54952.2(c) (5)) among elected officials, the grand jury found no violations.

City Response: The City agrees with this finding. The Brown Act does not prohibit social contact of a majority of the City Council, so long as no City business is discussed. By itself, the presence of a majority of the Council does not substantiate a Brown Act violation.

Finding 7: City Council members allow their personal differences and conflicts to interfere with voting and decision making. This negatively affects the community.

City Response: The City disagrees with this finding. City Council members take their oath of office and responsibilities seriously and do not take into account any personal differences they may have when considering a decision.

Finding 8: Council Member Espinoza did purchase property within the Redevelopment Area while he was a Director of the Redevelopment Agency. The California Form 700 was filed, but the purchase was never entered into the city council minutes, as required by California Health & Safety Code, Section 33130 (a). Since the filing of the Form 700 does constitute public disclosure, the grand jury does not believe there was any intent to conceal the purchase on Mr. Espinoza's part, and it is possible that the failure to enter the facts of the purchase in council minutes is merely an administrative oversight. Since Mr. Espinoza refused to be interviewed, the grand jury was unable to clarify this matter any further.

City Response: The City agrees with this finding. Agency Board Member Espinoza did acquire property within the Redevelopment Project Area while he was a Director of the Redevelopment Agency. Board Member Espinoza was not aware of the requirements of Health and Safety Code section 33130 and did not make any attempt to hide this acquisition of property, as documented by his Form 700.

Finding 9: The committee randomly selected and reviewed several audio recordings of City Council meetings and was unable to verify that the Council Members regularly vote on non-agenda items.

City Response: The City agrees with this finding. The City Council does not vote on items that are not listed on the agenda, unless permitted under the Brown Act.

Finding 10: The grand jury also noted that time limits for individual comments (three minutes per individual as written in council meeting rules, and stated by the Mayor at each meeting) are not observed.

City Response: The City disagrees with this finding. The Mayor has enlisted the City Attorney to time each speaker to allow each speaker 3 minutes for public comment as written in council meeting rules. This has been enforced as of December 2007.

Recommendation 1: Council Members should carefully consider all actions they might wish City staff to take, to ensure that such actions are in the best interests of the city as a whole, not merely for the benefit of selected individuals. They would be well advised to consult with the City Manager first to obtain his and staff's recommendations.

City Response: The City Council agrees that all contacts between Council Members and staff should go through the City Manager and should not include requests that may personally benefit a Council Member.

Recommendation 2: All Council Members should strictly observe the protocols implied by the City Organizational Chart and make requests of City staff only through the City Manager, except in emergency situations.

City Response: The City agrees that all Council Members should observe the City Manager form of government and make requests of City staff through the City Manager, except in emergency situations.

Recommendation 3: Council should resolve their differences with respect to the need for a Code Enforcement Officer, and direct the City hiring authority accordingly. There appears to be a real need for such a position, and the grand jury recommends that the position be filled as soon as possible.

City Response: The City disagrees with this recommendation. The need for a code enforcement officer is within the purview of the City Council. Such a decision must be considered against other competing interests and needs of the City, keeping in mind the City's limited budget.

Recommendation 4: The Council should make it very clear, perhaps through an ordinance, that the official minutes of council meetings are the audio recordings of such meetings. Further, copies of these recordings should be made readily available to the public at cost. One possible way to do this would be to provide copies to members of the public at no cost if the person desiring such a copy provides a blank audio tape on which to copy. Since not everyone has access to playback equipment, the city should provide for a room and equipment which the public can use for this purpose.

City Response: The City has already implemented this recommendation by adopting a Resolution that makes the audio recordings of the City Council meetings available to the public at no cost. The City also allows the public to listen to the audio recording at City Hall.

Recommendation 5: Although no Brown Act violations could be substantiated, council members should be aware that even the appearance of impropriety is to be avoided by elected officials. Council members should try to avoid frequent gatherings which tend to install public suspicions.

City Response: The City agrees in part and disagrees in part with the recommendation. The Council has completed its AB 1234 ethics training and is very familiar with the Brown Act and the appearance of impropriety. The Council is not prohibited from attending social gatherings, so long as no City business is discussed. The Council is aware of the appearance of impropriety that can occur and takes its ethical obligations seriously.

Recommendation 6: All Council Members should make every effort to cast aside their personal differences in favor of the best interests of the City of Livingston

City Response: The City already implements this recommendation. City Council members take their oath of office and responsibilities seriously and do not take into account any personal differences they may have when considering a decision.

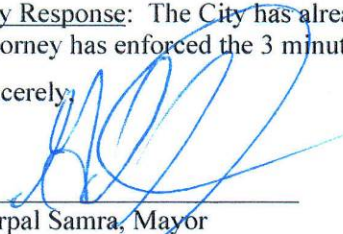
Recommendation 7: Councilman Espinoza should resign from his position as a Director of the Redevelopment Agency. Further, he should immediately enter into the next council meeting's minutes, notification of his purchase of property within the redevelopment area.

City Response: Agency Board Member Espinoza has indicated that he will resign from his position as a Board Member of the Redevelopment Agency and will disclose for the meeting minutes his acquisition of property within the Redevelopment Project Area.

Recommendation 8: Council should, with the assistance of the City Attorney, enforce the three-minute rule for public comment at all City Council meetings.

City Response: The City has already implemented this recommendation. As of December 2007, the City Attorney has enforced the 3 minute rule for public comment at all City Council meetings.

Sincerely,



Gurpal Samra, Mayor

Evaluation of Response - 2007 -2008 Grand Jury Report

This evaluation is in reference to the response made by the Councilmen of the City of Livingston to Complaint 07-08-01, 07-08-03 and 07-08-06.

The Grand Jury is dismayed by the response because the investigating committee found the complaints about staff interference to be clearly documented in a letter and other written memoranda. Regrettably these documents cannot be made public because they would reveal the identity of Grand Jury witnesses, a clear violation of the law. However, the overwhelming body of written documentation and testimony from numerous witnesses makes it undeniably clear that city staff is being intimidated and badgered by council members.

The response stated that the published minutes of council meetings present an **accurate and complete** summary of the meetings and that audio recordings are made and available to the public. The response does not state which version is the official one. However, it does state that the minutes are placed on the agenda for review and approval. If that is the case, the published (written) minutes must be the official ones. They however, do not reflect the identity of citizens who present comments or complaints, nor do they reflect the substance of such comments. The response also stated that the three minute rule for citizens' comments at council meetings has been enforced since December, 2007. Members of the Grand Jury personally attended a city council meeting after that date and noted that no effort was made to enforce the rule.

Finally, the response stated that council members do not take into account any personal differences they may have when considering their decisions. It was painfully obvious to Grand Jury members who attended that council meeting that the council members did indeed allow their personal feelings to influence their votes.

The overall response to the Grand Jury's findings and recommendations reflect an arrogance and attitude of superiority which does a disservice to the citizens of Livingston.

COMPLAINT 07-08-02

MERCED COUNTY DEPARTMENT OF MENTAL HEALTH

SUMMARY

The Grand Jury received a complaint regarding the lack of services provided by the Merced County Department of Mental Health. The complaint was accepted and assigned to the Audit and Finance Committee. In its investigation, the committee found that the Mental Health Department is faced with a number of challenges, primary among them being severe budgetary restraints. Additionally, the department has great difficulty in recruiting and retaining qualified professionals and providing services to county residents in a large geographical area. The jury recommended that the department and other agencies in Merced County should make a strong effort to coordinate their actions in order to more effectively and efficiently provide services to mental health consumers.

INTRODUCTION

The Grand Jury received a complaint stating that services provided by the Merced County Mental Health Department are seriously inadequate and poorly coordinated. The complainant stated that there are less than five psychiatrists in Merced County, while the demand for mental health services indicates a need for 30 or more. The complainant went on to state that the department does a poor job of recruiting professional staff and cannot retain those that it has. The complainant added that the department should form and coordinate an active and functional mental health development board to explore all options available to increase psychiatric care throughout Merced County.

METHOD OF INVESTIGATION

Individuals from numerous agencies including the mental health department, Merced County Department of Education, Merced County Health Advisory Board, Merced County Sheriff's Department and a local foster care facility were interviewed. Additionally, expenditure and revenue reports for several years (2004-2007) were reviewed.

FINDINGS

The Merced County Mental Health Department faces a number of challenges. Budgetary restraints, recruitment and retention of qualified professionals, and providing services to county residents in a large geographical area are primary issues the Mental Health Department must contend with on a daily basis. It should also be noted that Medi-Cal recipients, not insured or full fee paying patients, are the main consumers of the department's services.

Prior to 2007, the department had a Mobile Emergency Services unit which provided on-site services for handling 5150 situations (instances in which individuals were classified as mentally unstable and possibly suicidal) throughout the county. Some perceived disadvantages of this system were as follows:

- Clinicians were placed in dangerous situations at private residences

- Long response times were common because of large geographical coverage
- Cost of these services were high

The department eliminated the Mobile Emergency Services unit in 2007 and turned over responsibilities for handling 5150 situations to law enforcement agencies throughout the county. This new process, implemented in 2007, appears to eliminate some of these issues. The current practice requires law enforcement personnel to respond to a 5150 call and deal with the mental health consumers. Law enforcement officials have received limited training in dealing with these situations. While some agency representatives believe the new process is a better option than the previous one, others believe the new process has the following disadvantages:

- Lack of training for law enforcement personnel
- Lengthy waits for consultation at Marie Green Center
- Transportation and liability issues
- Inconsistent handling of 5150 cases

Review of expenditure and revenue reports did not expose any extraordinary expenses; however, severe fiscal issues resulted in a revenue shortfall of approximately \$8 million for the 2006-2007 fiscal year. Additional cuts were included in the 07-08 budget. As a result, approximately sixty (60) positions in Mental Health Department were identified as staff reductions to erase the shortfall. At their January 9, 2007 meeting, the Board of Supervisors authorized the deletion of twenty-five (25) vacant positions and the reduction in the workforce of thirty-five (35) filled positions. Additionally, the Board approved a reorganization of various positions.

The Mental Health Advisory Board has a number of vacant positions at the current time, and recruiting qualified individuals to fill positions is one of the challenges the Board faces. Additionally, the Board only acts in an advisory capacity and makes recommendations, so implementation of recommendations may not occur.

RECOMMENDATIONS

1. The Mental Health Advisory Board should recruit authoritative personnel from various agencies to form a subcommittee to investigate and propose a strategy which will enable various agencies to collaborate and coordinate services to optimize limited resources. The Board of Supervisors should also investigate ways to increase effectiveness of the Mental Health Advisory Board.
2. Merced County Mental Health and Public Health Departments, law enforcement agencies, and educational institutions should attempt to coordinate services to provide efficient and effective services to mental health consumers.
3. The Board of Supervisors should make every effort to fill the vacant positions and increase the workforce in the Department of Mental Health as funds become available.

COMPLAINT # 07-08-04

CHILD PROTECTIVE SERVICES AGENCY

Improper Removal of Children

Summary

The Grand Jury received a complaint which stated that the Merced County Child Protective Services Agency improperly removed two dependents from the complainant's home due to false allegations of child abuse. The complainant wanted the dependents returned to her. After reviewing Child Protective Services (CPS) and police reports of the incident which led to the removal of the dependents from the complainant's home and interviewing the CPS worker and a CPS Supervisor, the Grand Jury determined that there was sufficient evidence to justify the removal of the dependents from the complainant's home. Therefore, no further recommendations were made.

Introduction

The Grand Jury received a complaint which stated that the Child Protective Services Agency had improperly removed two children from the complainants' home due to false allegations of child abuse. The complainant wanted the children returned to her.

Method of Investigation

The Grand Jury reviewed Child Protective Services (CPS) and police reports of the incident which led to the removal of the children from the complainant's custody. The CPS worker and a CPS Supervisor were also interviewed.

Findings

1. There was sufficient evidence to indicate that the children had not been properly cared for while in the complainant's care.
2. The CPS referred the case to the Superior Court, which, on March 27, 2007, made the children involved wards of the Court.

Recommendations

Since actions of the Court are outside of the jurisdiction of the Grand Jury, no recommendations are in order. The Grand Jury believes that CPS should be commended for handling this case in a very professional manner.

COMPLAINT 07-08-05

Merced County Public Defender

The grand jury received a complaint alleging that the Merced County Public Defender was not properly representing the complainant in court with respect to a DNA sample test and analysis.

The grand jury declined to investigate this complaint because it is a matter to be resolved in court.

COMPLAINT # 07-08-07

LIVINGSTON DEVELOPER DONATION

SUMMARY

The Grand Jury received a complaint that a developer gave a check in the amount of \$55,000 to the city of Livingston to possibly gain favorable treatment for the developer. After investigation, the grand jury found that there was no violation of the law in the donation, or contribution, to the city.

INTRODUCTION

The grand jury received a complaint from a citizen of Livingston, alleging that a developer, Ranchwood Homes, had improperly given a check in the amount of \$55,000 to the city of Livingston in exchange for certain favors concerning the construction of a sewer pipeline in the Livingston area. The grand jury decided to investigate the complaint.

METHOD OF INVESTIGATION

The assigned grand jury committee interviewed the complainant and senior members of the Livingston city staff. The committee also consulted county counsel for advice. The city staff explained that it is common practice for developers to make contributions to cities when they are working on projects in the cities and discover they have realized savings on a particular project. Staff went on to say that the \$55,000 was part of a saving realized by the developer when he was allowed by the city to change from a concrete pipe to PVC pipe during construction of the sewer line. The city then used the contribution to purchase two pick-up trucks which are to be used at the city's waste water treatment plant. Since the two trucks cost slightly less than the \$55,000, the balance will be used for future maintenance of the vehicles. County counsel advised that there is nothing illegal about such contributions, which are commonly included in many development agreements. Counsel pointed out, however, that such potential contributions normally are included in pre-construction development agreements, which was not done in this instance. The contribution thus gave the appearance of impropriety.

FINDINGS

The grand jury finds that there was nothing illegal involved in Ranchwood Homes making the contribution to the city of Livingston.

RECOMMENDATION

The city of Livingston should ensure that potential contributions such as the above should be agreed to by developers and the city in written agreements prior to the beginning of any construction.

COMPLAINT # 07-08-08

LIVINGSTON CITY COUNCIL

Brown Act Violation

SUMMARY

The Grand Jury received a complaint alleging that three members of the Livingston City Council were believed to have violated the Brown Act. The Grand Jury investigation uncovered no evidence of a Brown Act violation; therefore, no recommendation was made.

INTRODUCTION

The Grand Jury received a signed complaint alleging that three members of the Livingston City Council were seen together at a local restaurant. The complainant believed that a meeting was held and that city business was discussed and decisions on how to vote at the next council meeting were made that would affect the city and the community.

METHOD OF INVESTIGATION

Members of the Grand Jury read the complaint and decided an investigation was justified. The Law & Justice committee met with the complainant. After an extensive interview with the complainant, the committee determined that the complainant had not heard any city business being discussed by the councilmen, nor did the complainant know of anyone else at the restaurant who may have overheard any of the conversation. The committee decided that any other interviews would result in the same findings and determination.

FINDINGS

Since the Brown Act expressly permits social contact (Government Code 54952.2(c)(5)) among elected officials, the committee determined that no proof of a Brown Act violation existed.

RECOMMENDATION

No further action is necessary on this complaint.

COMPLAINT 07-08-09

City of Livingston

The grand jury received a complaint alleging that the city of Livingston is not following the rules of publishing complaints in its city council minutes, nor is it publishing action(s) taken on such complaints.

The grand jury declined to investigate this complaint because its subject matter is being investigated as part of another complaint.

COMPLAINT 07-08-10

City of Livingston

The grand jury received a complaint alleging that the city of Livingston is not making accurate minutes available to the public.

The grand jury declined to investigate this complaint because the subject matter is part of an earlier complaint which is being investigated.

COMPLAINT 07-08-11

City of Livingston

The grand jury received a complaint alleging that the city of Livingston is expanding its wastewater treatment plant without obtaining the proper permits or completing required Environmental Impact Reports.

The grand jury declined to investigate this complaint because this complaint was investigated by the 2006-2007 grand jury and the city of Livingston is preparing its response to that investigation at this time.

COMPLAINT 07-08-12

City of Livingston

The grand jury received a complaint alleging that the city of Livingston is in violation of the California Public Records Act.

The grand jury declined to investigate this complaint because the subject matter is part of an earlier complaint which is being investigated.

COMPLAINT 07-08-13

City of Livingston

The grand jury received a complaint alleging that the city of Livingston is illegally purchasing property outside of its city limits.

The grand jury declined to investigate this complaint because the jury believes the complaint is frivolous.

COMPLAINT 07-08-14

City of Livingston

The grand jury received a complaint alleging that the city of Livingston is violating previous grand jury recommendations.

The grand jury declined to investigate this complaint because not following grand jury recommendations is not a violation of the law.

COMPLAINT 07-08-15

City of Livingston

The grand jury received a complaint alleging that developer influence is causing conflicts of interest within the city of Livingston.

The grand jury declined to investigate this complaint because its subject matter is being investigated as part of another complaint.

COMPLAINT 07-08-16

City of Livingston

The grand jury received a complaint alleging that the city's growth rates as projected by its planning department are inaccurate.

The grand jury declined to investigate this complaint because projected city growth rates are inherently inaccurate and therefore not illegal or improper.

COMPLAINT 07-08-17

City of Livingston

The grand jury received a complaint alleging that the city is "targeting" land outside its city limits and sphere of influence.

The grand jury declined to investigate this complaint because planning city growth is a normal and proper function of city planning, whether or not such plans eventually come to fruition.

COMPLAINT 07-08-18

City of Livingston

The grand jury received a complaint alleging that the city is violating the Brown Act because it did not meet the requirements to post legal notice of meetings on the city's web site.

The grand jury declined to investigate this complaint because it appeared to be a frivolous complaint.

COMPLAINT 07-08-19

City of Livingston

The grand jury received a complaint requesting the grand jury revisit a complaint that was investigated by the previous grand jury.

The grand jury declined to investigate this complaint because the city of Livingston has not yet responded to the earlier complaint in question.

COMPLAINT 07-08-20

MERCED POLICE DEPARTMENT OFFICE of the DISTRICT ATTORNEY CHILD PROTECTIVE SERVICES A WOMAN'S PLACE

SUMMARY

The Grand Jury received a complaint that an incident at her home was not properly investigated nor addressed by the police and the district attorney's office. The complainant also stated that the Woman's Place involved itself improperly. The Grand Jury conducted interviews and reviewed applicable documents and found that all procedures were followed properly.

INTRODUCTION

The complainant stated that the Merced Police Department officer who responded to her call failed to interview her at the scene of an incident which occurred at her home, or at any subsequent time. A further complaint was that the District Attorney's staff failed to respond to her concerns regarding the incident, partially because of a personal friendship or relationship with one of the individuals involved in the incident who is employed with Child Protective Services (CPS). Additionally, the complainant believes that a representative of the Woman's Place improperly interfered on the complainant's behalf. Finally, she complained that her attempts to contact the District Attorney (DA) were rebuffed for no good reason.

METHOD OF INVESTIGATION

The Law, Justice and Public Safety Committee reviewed all case files, police reports and the complainant's written statements to the investigating detectives. The committee also interviewed the complainant, senior police department officials, senior DA officials and other involved parties.

FINDINGS

- * The Merced Police Department did in fact interview the complainant at the scene of the incident at the time of its occurrence and again the following day.
- * The DA's staff also interviewed the complainant and attempted to address her concerns. Discussions between the DA staff and the complainant proved to be fruitless, probably because the complainant is too emotionally involved in the incident to accept the answers she is getting.
- * The involvement of the Woman's Place representative is normal and accepted procedure in domestic violence cases, and in this case, was in no way related to any relationship among DA staff, CPS and Woman's Place personnel.
- * The DA's staff and senior management acted in accordance with normal legal and office procedures.

* It is evident that the complainant does not understand the legal process.

RECOMMENDATION

The Grand Jury recommends that the District Attorney, personally, grant a brief interview with the complainant and fully explain how the law had to handle this case.

COMPLAINT 07-08-21

Merced County District Attorney, et al.

The grand jury received a complaint alleging threats and improper actions by the District Attorney's office.

The grand jury declined to investigate this complaint because the complainant has filed a monetary claim against the County of Merced in this matter (usually a precursor to legal action). Therefore, the grand jury believes it would be premature to involve itself at this time.

COMPLAINT 07-08-22

Merced County District Attorney, et al.

The grand jury received another complaint from a second party alleging threats and improper actions by the District Attorney's office.

The grand jury declined to investigate this complaint because the complainant has filed a monetary claim against the County of Merced in this matter (usually a precursor to legal action). Therefore, the grand jury believes it would be premature to involve itself at this time.

COMPLAINT 07-08-23

Merced County Department of Environmental Health.

The grand jury received a complaint alleging improper actions by officials of the Department of Environmental Health.

The grand jury declined to investigate this complaint because the complainant has filed a monetary claim against the County of Merced in this matter (usually a precursor to legal action). Therefore, the grand jury believes it would be premature to involve itself at this time.

COMPLAINT 07-08-24

Merced County Department of Environmental Health.

The grand jury received a complaint alleging improper actions by officials of the Department of Environmental Health.

The grand jury declined to investigate this complaint because the complainant has filed a monetary claim against the County of Merced in this matter (usually a precursor to legal action).

Therefore, the grand jury believes it would be premature to involve itself at this time.

COMPLAINT 07-08-25

Dos Palos Police Department

The grand jury received a complaint alleging that a member of the Dos Palos PD was abusing police powers.

The grand jury declined to investigate this complaint because the complaint appeared to be frivolous.

COMPLAINT 07-08-26

Volta Community Services District

The grand jury received a complaint concerning the financial activities of certain members of the Board of Directors of the Volta Community Services District.

After a brief inquiry, the grand jury referred the case to the Merced County District Attorney for further investigation and appropriate action.

COMPLAINT 07-08-27

Livingston Police Department

The grand jury received a complaint alleging that the Livingston PD used improper arrest procedures, committed a rude and warrant less entry into the complainant's home and failed to follow police guidelines prior to detention of an individual related to the complainant.

The grand jury was unable to investigate this complaint because the complainant did not respond to numerous attempts to contact him to obtain further information concerning the complaint.

COMPLAINT 07-08-28

City and County of Merced

The grand jury received a complaint alleging that the city and the county of Merced are not complying with the provisions of California Proposition 215 to allow the establishment of medical marijuana dispensaries in the city and/or county.

The grand jury declined to investigate this complaint because it considered the complaint to be frivolous.

COMPLAINT 07-08-29

Merced County Mental Health Department

The grand jury received a complaint that the mental health department had many problems with its treatment programs and was not following its own procedures.

There was insufficient time to fully investigate this complaint, so it was referred to the 2008 - 2009 grand jury.

COMPLAINT 07-08-30

Merced County Human Services Agency

The grand jury received a complaint that the human services agency had improperly removed a child from the custody of its parents.

The grand jury declined to investigate the complaint because it was apparent from the documents submitted as part of the complaint itself that the agency's actions had been entirely proper.

COMPLAINT 07-08-31

Merced Housing Authority

The grand jury received a complaint that the housing authority is not complying with the laws, policies and procedures which govern Section 8 housing allocations.

There was insufficient time to investigate this complaint, so it was referred to the 2008 - 2009 grand jury.

RESPONSES



City of Livingston

1416 C Street
Livingston, CA 95334

May 6, 2008

Merced County Grand Jury
P.O. Box 2034
Merced, California 95344-2034

Re: City of Livingston Response to Grand Jury Report Complaint 07-08-07

Dear Members of the Grand Jury:

The City of Livingston has reviewed the findings and recommendations of the Merced County Grand Jury Report regarding Complaint 07-08-07. After careful consideration of the report and Livingston's review of the facts, the City responds to the Grand Jury's finding and recommendation as follows:

Finding: There was nothing illegal involved in Ranchwood Homes making the contribution to the City of Livingston.

City Response: The City agrees with this finding. The City did not receive an illegal contribution from Ranchwood Homes.

Recommendation: The City should ensure that potential contributions such as the above should be agreed to by developers and the City in a written agreement, such as a development agreement, prior to the beginning of any construction.

City Response: The City has been in the process of negotiating a draft pre-annexation development agreement with Ranchwood Homes. The parties will consider including the contribution into the agreement.

Sincerely,


Gurpal Samra, Mayor

CITY OF LIVINGSTON
1416 "C" Street LIVINGSTON, CALIFORNIA 95334 PHONE: (209)394-8041 FAX: (209) 394-4190
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COUNTY EXECUTIVE OFFICE

Demitrios O. Tatum
County Executive Officer

2222 "M" Street
Merced, CA 95340
(209) 385-7637
(209) 385-7375 Fax
www.co.merced.ca.us

Equal Opportunity Employer

DATE: June 16, 2008
TO: Judge John Kiriara, Presiding Judge of the Superior Court
FROM: Angelo Lamas, County Executive Office 
SUBJECT: **Grand Jury Response**

Enclosed is the appropriate County department response for the recent Grant Jury reports on the Main Jail and John Latorraca Correctional Facility mandated inspections.

cc: Alfred G. Mueller, 2007/2008 Grand Jury Foreperson
Merced County Board of Supervisors
Demitrios O. Tatum, County Executive Officer

STRIVING FOR EXCELLENCE



MARK N. PAZIN
COUNTY OF MERCED
OFFICE OF THE SHERIFF-CORONER

2008 GRAND JURY RESPONSE

As required per California Penal Code § 933 (c), the Merced County Sheriff's Office is providing the following responses to the Merced County Grand Jury's "Findings and Recommendations" report of our correctional facilities and coroner's division.

JOHN LATORRACA CORRECTIONAL FACILITY ("JLCF")

STAFFING

Historically, staffing consistently remains the most important budgetary request for the County's correctional facilities and the following year's request includes eight new correctional officers, two account technicians, and four correctional facilities admission clerks. This staffing request is a joint JLCF and Main Jail budget request as the proposed staffing levels will correspond to the necessary ratio related to correctional officers and inmates.

OVERCROWDING

The Office of the Sheriff is always mindful and attentive to issues related to overcrowding. Overcrowding not only burdens the individual inmate, but also those correctional officers responsible for the respective inmate's welfare. The Sheriff continues to seek scarce state funding sources to assist with future jail construction. Also, this correctional facility will be implementing a three bed bunk system so that inmates will not be forced to temporarily sleep on floors.

MENTAL HEALTH

California Forensic Medical Group has provided mental health services for a year. The services have significantly improved our ability to address mental health issues of the inmates.

OVERTIME

Overtime has significantly increased because staffing level requirements have increased for each shift. Causes include, but are not limited to, recruitment, retention, and ever-increasing rates of the inmate population, medical and mental health staffing requirements, video arraignments, transportation requirements, and the new court facility becoming operational.

STRIP SEARCH POLICY

The newly established strip search policy does restrict the scope of searching inmates for weapons and contraband; however, other methods of detection should permit for effective screening of inmates.

WATER

A new water filtration system has been installed by the Department of Public Works at the JLCF so that inmates, employees, and visitors are no longer dependent on bottled water.

MAIN JAIL

STAFFING

(Please refer to abovementioned "Staffing" comments for JLCF)

OVERCROWDING

(Please refer to abovementioned "Overcrowding" comments for JLCF)

JAIL CONDITIONS

Requests for Capital Improvement Projects related to roofing, painting, etc. have been forwarded to the Department of Public Works. Purchase and installation of new heating and air units have been approved and are pending installation by DPW.

CORONER'S DIVISION

POWER REQUIREMENTS

Construction has begun to upgrade the power and electrical requirements for the decomposition room and is expected to be completed by the end of July, 2008.

RADIATION CASES

A safety protocol has been established for handling cases involving suspected radiation contamination.

CONCLUSION

The Merced County Sheriff's Office always welcomes the opportunity and responsibility to demonstrate its commitment toward the concerns of the Merced County Grand Jury. On behalf of all dedicated men and women of the Merced County Sheriff's Office, this Office thanks the Grand Jury's commendation and recognition of our professionalism and commitment to duties under stressful conditions.



City of
Los Banos
At the Crossroads of California

June 20, 2008

Merced County Grand Jury
P.O. Box 2034
Merced, CA 95344

Dear Grand Jury Members:

The **Los Banos Police Department** is in receipt of your report on the Los Banos Jail Mandated Inspection. I have read the findings and am responding as requested by your Foreman.

We take great pride in what we do to maintain a safe environment in the community of Los Banos. Our hard working and conscientious employees are always striving to find the best practices to perform our duties as public safety officials.

I have read your findings and agree with both statements. It is unfortunate that we were not made aware of the kitchen finding at the time of inspection so that could have been resolved immediately. This situation has been rectified and we will find other utensils to use for the preparation of food for the prisoners.

It is my hope that with the implementation of the 2008 - 2009 fiscal year's budget, we will be able to fill the open CSO positions, send those employees to the required training, and schedule personnel in a manner that provides for the maximum safety in our jail.

The Los Banos Police Department appreciates the hard work performed by the Grand Jury members. We look forward to future discussions regarding the hard work of the men and women who provide for our public safety in the City of Los Banos.

Sincerely yours,

Chris Gallagher
Chief of Police

Cc: City Manager

CITY OF GUSTINE

P.O. Box 16 • 682 Third Ave. • Gustine, CA 95322
Office: (209) 854-6471 • Fax: (209) 854-2840 • www.ci.gustine.ca.us

April 11, 2008

Alfred G Mueller
Foreman
Merced County Grand Jury
P.O. Box 2034
Merced, CA 95344

Dear Mr. Mueller:

Thank for your response to the City of Gustine, Police Department Inspection and for your commendations to the City, Lions Club, and Chief Anderson. We too believe that Chief Anderson's community-based policing approach has made great strides in building a positive relationship with our police department in the community. That was seen through the great community support Chief Anderson received. Council and Staff are being vigilant to continue the community-based policing in the decision of our new chief of police.

In response to your first recommendation to expand facilities for the police department, we have assigned a staff sub-committee to research and bring forth options for a new location or expansion of existing facilities to accommodate not only the police department staff but also the City's administrative staff facilities. This will be included in the 2008/2009 budget. To address your second recommendation; the 2008/2009 budget includes a new replacement vehicle for the police department.

Also mentioned in your recommendation was the adherence to POST recommendations; to date we are awaiting the arrival of POST for the police department review and recommendations. It is our intent to incorporate their recommendations which can be achievable with our limited resources.

The police department has been serving under the leadership of Acting Police Chief Starvrowsky since February 24th, who is also a proponent of community-based policing and has had a positive influence in achieving a cohesive department.

I'd like to thank the Grand Jury members who took the time to attend the special events on December 7, 2007, honoring Gustine War Veterans, and the ribbon cutting ceremony of our new animal shelter, built by our local Lions Club.

Sincerely,



Margaret Silveira
City Manager

cc: City Council
Acting Chief Stavrosky

